

A May 25, 2006 draft of the

BARTHOLOMEW COUNTY LOCAL COURT RULES

PREFACE

Pursuant to Rule 81(A) of the Indiana Rules of Trial Procedure, the courts of Bartholomew County hereby adopt the following local rules. These rules are intended to be supplemental to the Indiana Rules of Trial Procedure and other state-wide rule sets and are not intended to be inconsistent with, nor duplicative of, any state-wide rule.

Pursuant to Rule 81(H) of the Indiana Rules of Trial Procedure, if the interests of justice so require, these local rules may be waived, suspended, or modified in an individual case by the court upon its own motion or the motion of counsel for one of the parties.

Pursuant to Rule 2.2 of the Indiana Rules of Criminal Procedure, the courts of Bartholomew County hereby adopt the following local rules pertaining to the assignment of criminal cases.

Pursuant to Rule 15 of the Indiana Administrative Rules, the courts of Bartholomew County hereby adopt the following local rules pertaining to court reporters.

Out of convenience to interested parties, the local rules are numbered in accordance with the Indiana Rules of Trial Procedure, Indiana Rules of Criminal Procedure, and the Indiana Administrative Rules. Additionally, the local rules appear in the table of contents underneath the specific statewide rule to which they relate followed by a page number. If there is a supplementary local rule that is related to a state-wide rule set, but not a specific state-wide rule, the local rule will appear in the table of contents at the beginning of the section containing the state-wide rule set.

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BARTHOLOMEW COUNTY INDIANA **LOCAL COURT RULES**

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LR03-TR3.1-1: Leave to Withdraw Appearance

(a) **Motion to Withdraw.** All withdrawals of an appearance must be made in the form of a motion filed with the Court. Permission to withdraw is at the discretion of the Court.

(b) **Form of Motion.** Motions for leave to withdraw appearance must indicate the client's address in the Certificate of Service and Proposed Order.

(c) **Client Notification.** An attorney must give his client 10 days written notice of his intention to withdraw unless:

- (1) another attorney has filed an appearance for the same party;
- (2) the withdrawing attorney indicates in the motion that he or she has been terminated by the client; or,
- (3) the appearance of the attorney is deemed withdrawn upon conclusion of an action or matter.

Failure to conform to this rule may result in the denial of the motion to withdraw as counsel. The Court, in its discretion, may decide to grant the motion notwithstanding an attorney's failure to comply with this rule.

(d) **Rules of Professional Conduct.** All withdrawals of appearance shall comply fully with the provisions of the Rules of Professional Conduct.

LR03-TR5-1: General Provisions Regarding Filing of Pleadings, Motions, and Other Papers

(a) **Number of Copies.** All pleadings, motions, and other papers filed with the Court must be filed with the following number of copies:

- (1) an original copy that will be retained by the Court and,
- (2) 1 copy for each of the attorneys, or firms, for the opposing party or parties; or 1 copy for the opposing party if he or she is not represented by counsel.
- (3) The other parties should receive a file-marked copy. If the pleading is filed by mail, the attorney must also send stamped envelopes for the Court to serve the file-marked copy to the other parties. If the pleading is filed in person, the attorney shall serve the other parties the file-marked copy.

(b) Appearance & Signature Required for Filing. No pleading, motion, or other paper specified in Rule 5, Indiana Rules of Trial Procedure, will be accepted for filing by the Clerk of the Court unless such pleading, motion, or other paper has been signed in accordance with Rule 11, Indiana Rules of Trial Procedure, (if so required) by an attorney who has filed an appearance, in accordance with Rule 3.1, Indiana Rules of Trial Procedure, on behalf of the filing party, or by a party who has filed a pro se appearance. If it is later discovered that a nonconforming pleading or motion has inadvertently been accepted by the Clerk of the Court, upon this discovery, the pleading, motion, or paper may be stricken from the record at the Court's discretion.

(c) Supporting Briefs & Memoranda. If a party desires to file a brief or memoranda in support of a motion, such brief or memoranda must be attached to the motion and simultaneously filed. A supporting brief or memoranda must be attached to all motions filed under Rules 12 and 56 of the Indiana Rules of Trial Procedure.

LR03-TR5-2: Special Provisions Regarding Filing of Pleadings, Motions, and Other Papers

(a) Special Judge. When a special judge is selected, a copy of all pending pleadings, motions, and other papers must be mailed or delivered to the office of the Special Judge with a certificate of forwarding attached and made a part of the original papers. All proposed orders must be forwarded to the Special Judge as well.

(b) Filing by Mail. When pleadings, motions, or other papers are sent by mail for filing with the Court, the filing attorney or party must include a self-addressed stamped envelope for the return of documents to the attorney or party.

If there are any deficiencies in the pleading, motion, or paper that precludes filing, the Clerk is not responsible for such deficiencies. The Clerk and the Court are under no obligation to inform the filing attorney or party of any deficiencies or to correct any deficiencies.

(c) Filing by Facsimile Transmission. Pleadings, motions, or other papers may not be filed by facsimile transmission.

(d) Case Numbers. Except for the initial pleading (Complaint, etc.), no pleadings shall be accepted by the Clerk or the Court unless it has a Case Number placed prominently on the face of the pleading.

LR03-TR5-3: Filings Requiring Immediate Action

If a motion, pleading, or paper requires immediate action, the party shall file the document with the Clerk of the Court and bring the case-file to the Court so that the judge may take immediate action, if he or she so decides in his or her sound discretion.

LR03-TR5-4: Alternative Service - Courthouse Boxes

(A) **Courthouse Boxes.** Any Bartholomew County attorney or any Bartholomew County law firm may, without charge, maintain an assigned Courthouse box in the library of the Bartholomew County Courthouse for receipt of notices, pleadings, process, orders, or other communications from the Bartholomew County Courts, the Clerk, and other attorneys or law firms which use this service. If a Bartholomew County attorney or law firm decline to consent to receiving service by Courthouse boxes from other attorneys or Courts, then they may not use the boxes to serve other attorneys.

(B) **How Assigned.** Such Courthouse boxes shall be assigned only after such attorney or law firm has filed with the Circuit Court a Consent to Alternate Service (Appendix A). Bartholomew Circuit Court shall be responsible for assigning boxes and maintaining a file of consents and of revocations of consents to alternate service.

(C) **Effect of Consent.** Deposits made in any assigned box of notices, pleadings, process, orders, or other communications made shall be deemed to constitute and be accepted as service equivalent to service by first class mail under Trial Rule 6(E).

(D) **Limitations on Firm Use.** Members of law firms must all agree to Courthouse box service. If one member of the firm declines to accept service by Courthouse box method, then no other members of that firm may accept service utilizing the Courthouse box.

(E) **Revocation of Consent.** Consent to Alternate Service under this rule shall remain valid until a written revocation has been filed with the Law Librarian of the Allen Superior Court.

(F) **Limitation of**

LR03-TR10-1: General Rules for the Format of Pleadings, Motions, & Other Papers.

(a) **Paper Size, Line Spacing, and Margins.** All pleadings, motions, and other papers filed with the Court which are to be retained by the Court must

- (1) use white, opaque paper (except those filed on green paper to conform with Administrative Rule 9);
- (2) use 8 1/2 by 11 inch paper;
- (3) be double-spaced in the main body of the text. Quotations may single-spaced if they are indented. Headings and footnotes may be single-spaced;
- (4) have one-inch margins on all four sides. Page numbers may be placed in the margins, but no other text may appear there;
- (5) be printed only on the front side of the sheet; and
- (6) include page numbers that are centered in the bottom margin of each page.

(b) **File Stamp Space.** All pleadings shall allow sufficient blank space to the right of the case title to allow the clerk to file stamp the pleading without stamping over the caption

or case number. The space shall be a minimum of three inches width and two and one-half inch height.

(c) Type Styles. All pleadings, motions, and other papers filed with the Court must be legibly printed in non-cursive or be typed using:

- (1) a plain style font;
- (2) 12-point font;
- (3) black-colored font, and,
- (4) contain italics or underlines for case names or where otherwise appropriate according to the Uniform System of Citation. Italics and underlines may also be used for emphasis.

(d) Binding. All pleadings, motions, and other papers filed with the Court must

- (1) be bound so that their pages appear in numerical order;
- (2) be stapled or otherwise bound, as opposed to using a paperclip, in the upper-left hand corner.

LR03-TR10-2: Special Rules for the Format of Pleadings with Special Judge Presiding

Special Judge. If the case is before a Special Judge all pleadings, motions, and other papers shall contain the following to the right of the case title:

“BEFORE SPECIAL JUDGE _____”

LR03-TR10-3: Prepared Entries

Entries (Orders) prepared by parties or their counsel are not to be placed on the same document as is the underlying Motion or Petition unless said underlying Motion or Petition is one page in length and the Entry can be placed on that same page. If the Entry can not be placed on the one page, then said Entry is to be placed on a separate sheet of paper and captioned as an Order.

LR03-TR26-1: Notice to Court of Serving Discovery in Civil Tort Cases

In all CT cases, parties are required to file a “Notice of Discovery Requests” with the Court upon sending another party or entity Requests For Production, Interrogatories, or Requests For Admissions. The Notice of Discovery Requests shall state to whom the discovery request was sent and the date it was sent. It shall also specify the number of Interrogatories, number of Requests For Admission, or number of Requests For Production. The Notice of Discovery Requests shall be no more than one page in length.

LR03-TR26-2: Disclosure of Expert Testimony in CT Cases

(a) Each party shall disclose to other parties the identity of any person who may be used at trial to present evidence under Rules 702, 703, or 705 of the Indiana Rules of Evidence.

(b) Except as otherwise stipulated or directed by the court, this disclosure shall, with respect to a witness who is retained or specially employed to provide expert testimony in the case or whose duties as an employee of the party regularly involve giving expert testimony, be accompanied by a written report prepared and signed by the witness. The report shall contain a complete statement of all opinions to be expressed and the basis and reasons therefor; the data or other information considered by the witness in forming the opinions; any exhibits to be used as a summary of or support for the opinions; the qualifications of the witness, including a list of all publications authored by the witness within the preceding ten years; the compensation to be paid for the study and testimony; and a listing of any other cases in which the witness has testified as an expert at trial or by deposition within the preceding four years.

LR03-TR33-1: Interrogatory-Limitations

A party may not submit more than forty (40) Interrogatories, including subparts, without obtaining permission from the Court.

LR03-TR40-1: Assigning Cases for Trial

A case shall be assigned for trial and placed upon the trial calendar by the Court upon written request of a party and notice to all other parties. Except in Small Claims, such request must:

- (1) contain the type of trial or hearing requested (e.g. jury trial, bench trial);
- (2) contain a good-faith estimate of the time needed for the trial or hearing; and
- (3) state when it is expected that all parties will be prepared for trial.

LR03-TR40-2: Mediation Requirements in Civil Cases

All Civil cases that will require more than two hours of trial time will be referred to mediation, unless written waiver is granted by the Court. In the event that the parties request a trial setting of two hours or less and the hearing has not concluded within the time allotted, then the Court shall recess the trial and refer the matter to mediation. The Court may hear the balance of the evidence without resort to mediation in its discretion.

LR03-TR40-3: Settlement and Removing the Case from the Docket

Counsel for the parties shall be responsible for notifying the appropriate Court immediately upon settlement of a case so that the docket can be cleared and a new case set therein.

LR03-TR53.5-1: General Requirements for Motions for a Continuance

(a) Scheduling Conflicts

See LR03-TR53.5- 2(b)

(b) Time. In order for a motion for a continuance to be considered by the Court, it must be filed

- (1) at least 7 days before the court trial or hearing to which the motion pertains, or
- (2) at least 10 days before the jury trial to which the motion pertains; or
- (3) as controlled by a pretrial conference order.

(c) Information in Motion. Motions for a continuance shall contain the following information:

- (1) The date and time of the hearing or trial for which a continuance is being sought;
- (2) A good-faith estimate of the time needed for such hearing or trial when rescheduled;
- (3) The date and time opposing counsel was notified that the party would be seeking a continuance; and
- (4) Whether opposing counsel agrees with or objects to the request.

(d) Procedure For Agreed Continuances

- (1) If the Parties agree to the continuance
 - i. The parties shall initiate a conference call with the Court Reporter for the purpose of reaching an agreed date for the hearing/trial.
 - ii. Once the parties agree to a date it shall not be continued for any reason. (Emergency continuances will be granted only in exceptional circumstances.)
- (2) If the Parties do not agree on the continuance, the Motion shall so state and the matter will be forwarded to the Court for consideration. If granted by the Court, the party requesting the continuance shall initiate the conference call described in subsection (i) above. Subsection (ii) above shall apply once the agreed date is confirmed.
- (3) The foregoing provisions apply regardless of whether the parties are represented by counsel.
- (4) If a party is unavailable or uncooperative with arranging the conference call, the Court may proceed to reach an agreed date, and the parties will nevertheless be bound by the date reached during the conference call.

LR03-TR53.5-2: Exceptions to the General Requirements for Motions for a Continuance

(a) Domestic Matters. For all domestic matters involving final hearings, modifications, or contested contempt citations in Dissolution or Paternity cases; a motion for continuance upon agreement by all the parties must be signed by the attorneys for both parties with a verification that each attorney has consulted with their client concerning the requested continuance. Failure to have both attorneys sign the motion may result in the denial of the motion by the Court. The Court in its discretion may grant the motion notwithstanding the lack of a party's signature.

(b) Conflicting Trials in Other Courts. When counsel for a party requests a continuance because he or she has a conflicting trial scheduled in another court, the motion for a continuance must be filed within 21 days after the case is set for trial or hearing in this Court. The motion must also state the name and case number of the other case, as well as the date that the other court set the conflicting case for trial. Failure to timely file may result in a denial of the motion for a continuance. The Court, in its discretion, may choose to grant the motion notwithstanding the lack of timely filing under exceptional circumstances

LR03-TR72-1: Court Hours

(a) Normal Court Hours of Operation. The Bartholomew County courts shall be **open to the public** to conduct business Monday through Friday, legal holidays excluded, from 8:00 A.M. until noon and from 1:00 P.M. until 4:45 P.M.

(b) Exceptions to Normal Court Hours. When unforeseen circumstances occur, the judge of the Court may direct court closing for the day. The Court shall make a reasonable effort to notify litigants scheduled for court that day.

LR03-TR76-1: Assigning a Court for Cases Transferred to this County

(a) Default Court. When a case is transferred to this county without specifying to which Court it is to be transferred, the Clerk of the Court shall docket the case in Circuit Court.

(b) Transfer Specifying a Particular Court. When a case is transferred to this county and the transfer specifies a Court, the Clerk shall docket the case in the specified Court.

LR03-TR77-1: Costs for Obtaining Copies of any Pleading, Order, or Recording

(a) Pleadings and Orders. On the application of any person, the Clerk of the Court shall make copies of any non-confidential pleading or order in the Clerk's custody at the expense of the person so requesting the same.

(b) Recordings. On the application of any person, the Court Reporter of a Court shall make copies of any non-confidential recording in the Court Reporter's custody at the expense of the person so requesting the same. The person requesting a recording must complete the REQUEST FOR RECORDING form found at Appendix A herein.

(c) Payment in Advance. All costs shall be paid in advance or at the time of receipt of the copied pleading or order. All costs shall be paid in advance for copied recordings.

LR03-TR77-2: Removal of Original Pleadings, Papers, and Records

No person shall withdraw any original pleading, paper, or record from the custody of the Clerk of the Court or other officer of the Court except upon the order of the judge of the Court.

LR03-TR79-1: Selection of Special Judges

(a) Agreement Between the Parties. If the parties to an action agree on any particular special judge, and if that selected judge also agrees, then the judge shall serve as special judge in the case.

(b) Absent an Agreement Between the Parties. In the absence of an agreement between the parties as to a particular special judge, the parties may:

- (1) agree to have the regular sitting judge appoint a special judge; or
- (2) agree to have the regular sitting judge appoint a panel of judges from which they may select the special judge; or
- (3) if none of these methods work, the regular sitting judge shall certify to the Supreme Court for naming of a special judge.

Normally, the regular sitting judge will appoint a panel of judges from District 11. District 11 includes the following counties: Bartholomew, Brown, Decatur, Jackson, and Jennings.

(c) Appointment after a Special Judge Declines Appointment If a selected special judge does not accept jurisdiction of the case, then pursuant to Trial Rule 79(H) the judge before whom the case is pending shall appoint an eligible special judge from within District 11. Each regular sitting judge shall maintain a list of all eligible special judges from District 11 and shall appoint them sequentially.

LR03-TR79-2: Forwarding of Materials to Special Judge

After a special judge has accepted jurisdiction, a copy of the Chronological Case Summary shall be mailed or delivered to the office of that Special Judge by the Court.

FAMILY LAW RULES

Paternity, Guardianship, and Dissolution Cases

LR03-TR00-FL-1: Witness and Exhibit Exchange

In all contested Family Law cases except for provisional hearings; counsel for the parties are to exchange names and addresses of all witnesses as well as actual copies of all exhibits at least seven (7) days prior to trial. They are further ordered to file the list of witnesses and exhibits with the Court at least seven (7) days prior to trial. Failure to include a witness or exhibit shall preclude the witness from testifying or the exhibit from being introduced, unless the Court waives such requirement for good cause shown.

LR03-TR00-FL-2: Marital Balance Sheet filing

In all contested Dissolution of Marriage cases, counsel for the parties are to file with the Court a marital balance sheet, including date-of-filing asset values and debt values, as well as a proposed property and debt division. Said documents are to be filed at least seven (7) days prior to trial. Failure to comply will result in the Court removing the case from the trial calendar and shall subject the non-complying party to sanctions.

LR03-TR00-FL-3: Parenting Class Requirements

- (a) All parents who are seeking custody or parenting time with their minor children in Dissolution of Marriage and Paternity actions are required to attend a parenting class prior to the final hearing on the case. Said parenting class shall be “Children First” or an equivalent thereto.
- (b) All attorneys who represent parties with minor children in Dissolution of Marriage or Paternity actions shall notify their client of this requirement within seven (7) days of entering their appearance in the case. An attorney who fails to notify their client of this requirement may be sanctioned.

LR03-TR00-FL-4: Continuances

See LR03-TR53.5-2(a).

LR03-TR00-FL-5: General Principals and Philosophies

(a) Ex Parte Temporary Restraining Orders Pursuant to Indiana Code 31-1-11.5-7 and Trial Rule 65(E), if a party files the appropriate affidavit and Motion For a Temporary Restraining Order, the Court will issues Orders as follows:

1. Dissipation of Assets --- A Joint Order will be granted upon affidavit alleging fear that dissipation will occur.
2. Removal of Other Party From Residence--- This will be granted only when:
 - i.) There are specific allegations of past physical violence to the spouse; or,
 - ii.) Person seeking TRO has moved from the marital residence and seeks other party restrained from new residence; or,
 - iii.) Specific allegations that person sought to be restrained moved from the marital residence at least 7 days prior to the filing of the request.
3. Keep other Party from Your Place of Work --- The Court will grant a Joint TRO keeping the both parties from coming to the other's place of work or contacting the other at their place of work upon allegations of fear of harassment .
4. Keep Vehicle in Your Possession--- This will be granted upon allegation of fear of removal and allegation that this was normally your vehicle to drive during marriage.
5. Keep Tangible Personal Property in Possession --- This will be granted only to Jointly keep parties from removing items from the marital residence.
6. Temporary Custody of Children --- This will only be granted in extremely extraordinary circumstances such as specific allegations of specific significant harm perpetrated by other party. Such harm must rise to the level of prima facie abuse or be criminal in nature.
7. Removing Children from Jurisdiction --- The Court will grant a Joint TRO prohibiting both parties from removing the children from the Court's jurisdiction upon allegations of fear of removal.
8. Tendered Order Language --- The Order tendered to the Court shall not contain the phrase "and the Court finding the allegations to be true."

(b) Emergency Provisional Hearings If a provisional hearing is set and the other party moves for a change of venue from the judge, the Court will consider that the matter is an emergency and the hearing will remain on the docket. The hearing will then be held in a bifurcated fashion and the party seeking the provisional order must show that an emergency exists. If there is no showing that an emergency exists, then the second part of the hearing will not take place. The Court will generally consider the need for support or maintenance as an emergency.

(c) Court Costs If court costs are initially waived, they will be addressed at the Provisional Hearing and/or the Final Hearing.

(d) Required Language in Every Decree

1. Tax Exemptions --- If a non-custodial parent is granted a child as a dependent for their income taxes, the Decree shall state: "X shall be entitled to claim C as a dependent on his/her state and federal income taxes so long as he/she is current in child support

obligations as the end of said tax year. Y shall execute and return to X the necessary tax documents, upon receipt from him/her, on or before January 31st after the close of said taxable calendar year.”

2. Payment of Child Support through Withholding Orders --- Income Withholding Orders shall contain the following language. “The Court having issued an Order, ordering X, SS #____-____-2282 (place only the last four numbers of Obligor’s Social Security number here) (hereinafter called “Support Obligor”) to pay for the benefit of the parties’ minor child(ren) in the sum of xxx Dollars (\$x.00) per week, and the Court further having determined that said Support Obligor is employed by Y, (address of Employer) (hereinafter called “Income Payor”) and regularly receives income from said Income Payor.

And the Court orders that Income Payor, until further order of this Court, is to withhold the following amount of x Dollars (\$x.00) from Support Obligor’s weekly check and forward same to the Indiana State Central Collection Unit, P.O. Box 6219, Indianapolis, IN, 46206-6219 with Obligors Social Security # ____ - ____ -2282 (place only the last four numbers of Obligor’s Social Security number here) and ISETS #???????? posted on his check, each week.

Said Income Payor may also collect from Support Obligor, for the Income Payor’s benefit and upon the decision of said Income Payor, the sum of Two Dollars (\$2.00) each time the Income Payor forwards money to the Bartholomew County Clerk.

The Court further orders that this wage withholding order is binding upon the Income Payor until further notice of the Court; that the Support Obligor may recover One Hundred Dollars (\$100.00) from the Income Payor in a civil action if the Income Payor discharges, refuses employment, or disciplines the Support Obligor because of this Order; that the Income Payor is liable for any amount that the Income Payor fails to forward to the Clerk of the Bartholomew County Courts; that this order has priority over any claim on the Support Obligor’s income except claims for federal, state and local taxes; that said Income Payor may combine payments hereunder with other payments for all Support Obligor in one payment, provided, however, each portion of said payment is identified for each said Support Obligor; that said Income Payor shall comply on a “first come, first serve” basis for any competing withholding orders.

The Court further orders that said Income Payor shall implement the withholding hereunder no later than the first pay period that accrues after fourteen (14) days hereof; and that said Income Payor shall notify the Court if said Support Obligor terminates his employment within ten (10) days thereof, and shall provide the last known address of Support Obligor and name and address of said Support Obligor’s new employer, if known.”

3. Payment of Child Support through Clerk’s Office --- In each case where a party pays child support through the Clerk of the Court, the Decree should state: “X is ordered to pay \$x.00 per week through the Office of the Clerk of this Court, 234 Washington Street, Columbus, IN 47201, by cash, which payments are to commence on the ____ day of _____, 20____, and be paid on or before each Friday thereafter. X shall pay any yearly fees that are required by the Bartholomew County Clerk's Office.”

(e) Separation Agreement Signature Separation Agreements should not have a line for the Judge to sign. The proposed Decree of Dissolution should contain language which incorporates the Separation Agreement into the Decree.

(e) Higher Education - College Expenses The Court will generally look at the Child's aptitude, the parents and child's ability to pay. Generally, the Court will not delineate higher educational contributions years in advance of attendance. Generally, Court will order contribution based upon in-state school expenses, regardless of which institution of higher education child is attending. Examples of exceptions to limiting contribution to in-state costs are 1) where parents both attended a private or out-of-state school, 2) where siblings attended private or out-of-state school, 3) child has an extremely high aptitude, 4) where child has been promised private school or out-of-state school for years, and 5) where private school or out-of-state school offers classes not offered by in-state school and child intends to major in that area of concentration. Generally, Court will order contribution for a maximum of four years if four years would normally be required for the degree. Generally, Court will order contribution based upon the net costs after subtracting out grants and scholarships that do not have to be paid back. The Court will generally start with a presumption that the child should pay circa 20% of the net costs and that the parents should contribute pursuant to their percentage of earnings for the other 80%. This presumption is general and can be influenced by availability of monies child has from other sources (grandparents' trust fund), parent not working because of subsequent marriage, child's inability to work because of extracurricular activities, parent's overall level of income, precedent of the way parents' paid for older siblings higher education, etc.

(f) In Camera Interviews If the Court has an *in camera* interview with a child, the parties and attorneys are prohibited from discussing that interview with the child afterward.

LR03-TR00-FL-6: Automatic Withdrawal of Appearance

In Domestic Relation (DR) cases and Paternity (JP) cases, an attorney's Appearance in the case shall automatically be deemed to be withdrawn thirty-five (35) days after the conclusion of the pending action, ie., Final Decree, Modification, or Citation. If a new action, ie., Modification or Citation, is filed more than thirty-five (35) days after the conclusion of a prior action, an attorney will need to re-enter his or her Appearance to represent a party in the new action.

LR03-TR00-FL-7: Guardianship Filings

Separate files with separate case numbers must be opened for each prospective ward.

RULES SUPPLEMENTING INDIANA RULES OF CRIMINAL PROCEDURE

LR03-CR00-BOND-1: General Provisions for Bonds

(a) Bond Schedule. Unless otherwise ordered by the Court, the following shall be the amounts set for the bail bonds:

<u>Charge</u>	<u>Bond Amount</u>
Alcohol Misdemeanors	\$5,000 Cash
Class C Misdemeanors	\$2,500 Cash
Class B Misdemeanors	\$3,000 Cash
Class A Misdemeanors (non-driving)	\$3,500 Cash
Class A or C Misdemeanor (OMVUI)	\$7,500 Cash
Class D Felony (OMVUI)	\$7,500 Cash
Class C Felony (driving related)	\$10,000 Cash
Class D Felony (non-driving)	\$30,000 Cash
Class D Felony (possession of meth or theft of meth precursors)	\$50,000 Cash
Class D Felony (manufac. or distrib. meth)	\$75,000 Cash
Class C Felony (non-driving)	\$80,000 Cash
Class C Felony (possession of meth)	\$100,000 Cash
Class C Felony (manuf. or distrib. meth)	\$200,000 Cash
Class B Felony	\$200,000 Cash
Class B Felony (possession of meth)	\$350,000 Cash
Class B Felony (manuf. or distrib. meth)	\$500,000 Cash
Class A Felony	\$500,000 Cash
Murder	NO BOND

All bonds may be posted in full in cash or 10% in cash of the full amount. In the event that an arrest is made without a warrant signed by a judge endorsing a specific bond, the charts above shall establish the bond for a “preliminary charge.” In the event that the individual is arrested on more than one “preliminary charge,” the bond shall be determined by adding the amounts indicated for each charge times the total number of charges.

In the event that the arresting officer believes that the above schedule is not appropriate for a specific arrest based upon facts known to the officer or surrounding circumstances, the officer may complete an affidavit in a form substantially conforming to the form attached hereto and provide it to the Sheriff’s Department and the Sheriff is authorized to hold such arrestee until the sooner of 48 hours (excluding weekends and holidays) or until further order of a Judge.

The following United States Citizens who are residents of Bartholomew County, Indiana suspected of the following crimes who have been arrested and booked into jail may be released without posting bond according to the following schedule:

1. **Illegal Consumption:** May be released after burn off of the alcohol in their system, generally after four to eight hours or immediately to their parent or guardian.
2. **Public Intoxication:** May be released after burn off of the alcohol in their system, generally after four to eight hours.
3. **Possession of Marijuana (less than 30 grams):** May be released immediately.
4. **Possession of Paraphernalia:** May be released immediately.
5. **Driving while Suspended (Prior):** When suspension is for a technical violation or for failure to pay on outstanding infractions in this or other counties, may be released immediately. (NOTE: Suspects who are alleged to have committed this crime who are suspended for alcohol or drug violations are not to be released under this rule.)

LR03-CR00-DISCOVERY-1: Reciprocal Pre-Trial Discovery

(a) How Made. In all criminal cases, mandatory reciprocal pre-trial discovery must be furnished by the State within 30 days of the date of the earlier of the omnibus date or the appearance by an attorney on behalf of the Defendant and the Defendant's pre-trial discovery must be made within 30 days after the State's production.

(b) State's Mandatory Obligations. The State must furnish the following to the Defendant or the attorney for the Defendant as though a Request For Production was filed:

- (1) The names and last known addresses of persons whom the State may call as witnesses, together with their relevant written or recorded statements.
- (2) Any written or recorded statements and the substance of any oral statements made by the accused or by a co-defendant, and a list of any witnesses to the making or acknowledgment of such statements.
- (3) Any reports or statements of experts, made in connection with the particular case, including the results of physical or mental examinations and of scientific tests, experiments or comparisons.
- (4) Any books, papers, documents, photographs or tangible objects which the prosecuting attorney intends to use in the hearing, or trial, or which were obtained from or belong to the accused.
- (5) Any record of prior criminal convictions which may be used for impeachment of the persons whom the State intends to call as witnesses at the hearing or trial.
- (6) The terms of any agreements made with co-defendants or other State's witnesses to secure their testimony.
- (7) Any material or information within the State's possession that tends to negate the guilt of the accused as to the offense charged or would tend to reduce the defendant's punishment.

(c) Defendant's Mandatory Obligations. The Defendant must furnish to the State the following materials as though a Request For Production was filed:

- (1) the names and last known addresses of the persons whom the Defendant intends to call as witnesses along with their relevant written or recorded

statements, and any record of prior criminal convictions of such witnesses, if known;

(2) any books, papers, documents, photographs, or tangible objects the Defendant intends to use as evidence or for impeachment at hearing or trial;

(3) medical, scientific, or expert witness evaluations, statements, reports, or testimony which may be used at hearing or trial.

(d) Defendant's Obligations Upon Request of the State. Upon request by the State, the Defendant must produce the person of the accused, subject to constitutional and statutory limitations, for purposes of:

(1) appearing in a line-up

(2) speaking for identification by witnesses to an offense;

(3) being fingerprinted;

(4) posing for photos not involving reenactment of a scene;

(5) trying on an article of clothing;

(6) permitting samples of blood, hair, or other materials of his body which involve no unreasonable intrusion;

(7) providing a sample of the defendant's handwriting; and

(8) submitting to a reasonable physical or medical inspection of the defendant's body.

Whenever the person of the accused is required for the foregoing purposes, reasonable notice shall be given by the State to the accused and his counsel, who shall have a right to be present.

***LR03-CR00-PLEA AGREEMENTS-1-Deadlines**

(a) A "Plea Bargain" is defined as an offer by the State to the Defendant which sets parameters on the sentence which the Court can impose if accepted by the Defendant and approved by the Court.

(b) A "Charge Bargain" is defined as an offer by the State to the Defendant that dismisses certain Counts and/or cases, or reduces the charge to a lesser included offense.

(c) The State shall notify the Defendant in writing at least seven (7) days prior to the pretrial conference of any plea or charge bargain they are offering to the Defendant.

(d) Counsel for the Defendant shall notify the Defendant of each plea offer extended to the Defendant.

(e) Counsel for the Defendant shall notify the Defendant of said offer and shall be prepared to notify the Court at the final pretrial conference as to whether the Defendant shall accept or reject said offer.

(f) The Court will not accept a Plea Bargain after the Plea Hearing date.

***LR03-CR00-INITIAL HEARING -1 Waiver**

In all C Felony or higher cases and all driving felony cases, the defendant is ordered to be present at the Initial Hearing. In all other D felony and Misdemeanor cases the defendant is required to be present at the initial hearing unless a Waiver is filed, signed by the Defendant and his attorney.

LR03-CR2.1-1: Leave to Withdraw Appearance

(a) Motion to Withdraw. All withdrawals of an appearance must be made in the form of a motion filed with the Court. Permission to withdraw is at the discretion of the Court.

(b) Form of Motion. Motions for leave to withdraw appearance must indicate the client's address in the Certificate of Service and Proposed Order.

(c) Client Notification. An attorney must give his client 10 days written notice of his intention to withdraw unless:

- (1) another attorney has filed an appearance for the same party;
- (2) when the withdrawing attorney indicates in the motion that he or she has been terminated by the client;
- (3) when the appearance of the attorney is deemed withdrawn upon conclusion of an action or matter.

Failure to conform to this rule may result in the denial of the motion to withdraw as counsel. The Court, in its discretion, may decide to grant the motion notwithstanding an attorney's failure to comply with this rule.

(d) Rules of Professional Conduct. All withdrawals of appearance shall comply fully with the provisions of the Rules of Professional Conduct.

LR03-CR2.2-1: General Rules for Assignment of Criminal Cases

(a) Superior Court 2. The following types of cases shall be docketed with Superior Court 2:

- (1) all class D, C, and B felonies related to driving offenses;
- (2) all classes of misdemeanors (except Domestic Violence cases); and
- (3) all classes of infractions.

(b) Circuit and Superior Court 1. The following shall be docketed with the Circuit Court and Superior Court 1 in a random method by the Clerk. The following types of cases shall be docketed with these two courts according to the aforementioned method:

- (1) all class A-D felonies (except those specifically denoted to be filed in Superior Court 2 and except for Domestic Violence cases) and
- (2) all capital offenses.

(c) Domestic Violence Cases

All Domestic Violence and Domestic Sex Offenses, excluding Murder, shall be filed in the Bartholomew Superior Court I, including misdemeanor charges.

(d) Defendants with Multiple Actions. Notwithstanding LR03-CR2.2-1(a) and (b), when a Defendant has a case pending against them in Circuit or Superior Court 1, during the pendency of that case, all subsequent criminal actions filed against that Defendant shall be assigned to the Court where the initial case was assigned.

(e) Co-Defendants. When two or more defendants are charged with felonies as the result of the same underlying set of facts, they shall all be charged in the same Court.

(f) Charges Alleging violation of Protective Order. When a defendant is charged with violation of a Protective Order, those charges shall be filed in the Court where the protective order was issued.

(g) Prosecutor's Knowledge of Potential Conflict.

In the event the prosecutor has knowledge prior to the filing of a case that a judge should not receive a case because of a conflict, or for some other reason, the prosecutor may request the filing of a case in a specific court by making specific allegations in a written request filed at the time of filing said case. This request may be approved by the judge of the Court in which the prosecutor seeks to file said case.

LR03-CR2.3-1 Transfer of Cases

(a) In the event of a conflict, Circuit Court shall reassign cases first to Superior Court 1 and if there is a conflict with Superior Court 1, then the reassignment shall be to Superior Court 2.

(b) In the event of a conflict, Superior Court 1 shall reassign cases first to Circuit Court and if there is a conflict with Circuit Court, then the reassignment shall be to Superior Court 2.

(c) In the event of a conflict, Superior Court 2 shall reassign cases to Circuit Court and Superior Court 2 randomly.

(d) In the event that no Courts in Bartholomew County are available to hear a case, then that case shall be transferred to Shelby Circuit Court or Decatur Circuit Court randomly.

(e) In the event that no judge is available for assignment or reassignment, such case shall be certified to the Indiana Supreme Court for the appointment of a Special Judge.

RULES SUPPLEMENTING THE INDIANA ADMINISTRATIVE RULES

LR03-AR7-1: Evidence Handling, Retention and Destruction

Preamble

In all cases, the court shall proceed pursuant to these Rules unless the court directs a longer retention period after motion by any party or on its own motion.

(a) Civil Cases, Including Adoption, Paternity, and Juvenile Proceedings. All models, diagrams, documents, or material admitted in evidence or pertaining to the case placed in the custody of the court reporter as exhibits shall be taken away by the parties offering them in evidence, except as otherwise ordered by the court, four (4) months after the case is decided unless an appeal is taken. If an appeal is taken, all such exhibits shall

be retained by the court reporter for two (2) years from termination of the appeal, retrial, or subsequent appeal and termination, whichever is later.

The Court reporter shall retain the mechanical or electronic records or tapes, shorthand or stenographic notes as provided in Indiana Administrative Rule 7.

(b) Retention Periods for Evidence Introduced in Criminal Misdemeanor, Class D and Class C Felonies and Attempts

Misdemeanor, Class D and C Felonies and Attempts. All models, diagrams, documents, or material admitted in evidence or pertaining to the case placed in the custody of the court reporter as exhibits shall be taken away by the parties offering them in evidence except as otherwise ordered by the court, three (3) years after the case is dismissed, the defendant found not guilty, or the defendant is sentenced, unless an appeal is taken. If an appeal is taken, all such exhibits shall be retained by the court reporter for three (3) years from termination of the appeal, retrial, or subsequent appeal and termination, whichever is later, unless an action challenging the conviction or sentence, or post-conviction action, is pending.

The Court reporter shall retain the mechanical or electronic records or tapes, shorthand or stenographic notes as provided in Indiana Administrative Rule 7.

(c) Retention Periods for Evidence Introduced in Criminal Class B and A Felonies and Murder Attempts

Class B and A Felonies and Murder and Attempts. All models, diagrams, documents, or material admitted in evidence or pertaining to the case placed in the custody of the court reporter as exhibits shall be taken away by the parties offering them in evidence, except as otherwise ordered by the court, twenty (20) years after the case is dismissed, the defendant found not guilty, or the defendant is sentenced, unless an appeal is taken. If an appeal is taken, all such exhibits shall be retained by the court reporter for twenty (20) years from termination of the appeal, retrial, or subsequent appeal and termination, whichever is later, unless an action challenging the conviction or sentence, or post-conviction action, is pending.

The court reporter shall retain the mechanical or electronic records or tapes, shorthand or stenographic notes as provided in Indiana Administrative Rule 7.

Courts should be encouraged to photograph as much evidence as possible and courts and parties reminded of the requirements of Appellate Rule 29(B).

(d) Non-documentary and Oversized Exhibits

Non-documentary and oversized exhibits shall not be sent to the Appellate level Court, but shall remain in the custody of the trial court or Administrative Agency during the appeal. Such exhibits shall be briefly identified in the Transcript where they were

admitted into evidence. Photographs of any exhibit may be included in the volume of documentary exhibits.

Under no circumstances should drugs, currency, or other dangerous or valuable items be included in appellate records.

(e) Notification and Disposition

In all cases, the court shall provide actual notice, by mail or through the Bartholomew County Courthouse mailbox system, to all attorneys of record and to parties if unrepresented by counsel, that the evidence will be destroyed by a date certain if not retrieved before that date. Counsel and parties have the duty to keep the court informed of their current addresses and notice to the last current address shall be sufficient. Court reporters should maintain a log of retained evidence and scheduled disposition date and evidence should be held in a secure area. At the time of removal, a detailed receipt shall be given to the court reporter by the party receiving and removing the evidence, the receipt will be made part of the court file.

In all cases, evidence that is not retaken after notice, should be disposed of by the court, or the sheriff on the court's order. The sheriff should be ordered to destroy evidence if its possession is illegal or if it has negligible value. Evidence of some value should be auctioned by the sheriff with proceeds going to the county general fund. These Rules and their retention periods will take precedence over inconsistent language in statutes. I.C. 35-33-5-5(c)(2).

(f) Biologically Contaminated Evidence

A party who offers biologically contaminated evidence must file a pretrial notice with the trial court and serve all the parties so that the court can consider the issue and rule appropriately before trial. A party can show contaminated evidence or pass photographs of it to jurors, but no such evidence, however, contained, shall be handled or passed to jurors or sent to the Jury Room, unless specifically ordered by the Court.

LR03-AR11-1: Paper and Filing Requirements

See LR03-TR10-1

LR03-AR12-1: Fax Filings

Facsimile filing is not accepted by the Court unless specifically ordered under exceptional circumstances.

LR03-AR15-1: Rules Governing Court Reporters and County Employers

(a) Generally. A court reporter shall be permitted to type transcripts of official court proceedings during regular work hours. County equipment and supplies shall be used for the recording and/or preparation of such transcripts.

(b) Overtime. If the preparation of transcripts requires additional time beyond the normal work week, the court reporter shall either:

- (1) be paid overtime, (2) credited with time off from the regular work week, or
- (3) be paid per page rates.

Whether to be paid overtime or credited with time off may be negotiated between the court reporter and the court and is subject to the decision of the court.

(c) Salary. A court reporter shall be paid an annual salary for time spent working under the control, direction, and direct supervision of the court during all regular work hours and overtime hours. The amount of salary shall be set by each court subject to the approval of the Bartholomew County Council. Such salary shall be based on a regular work week of 40 hours.

(d) Transcripts Prepared for Other Courts. A court reporter may, at the request of another official court reporter, prepare transcripts for another court. Such preparation may not be done during regular work week hours.

LR03-AR15-2: Rules Governing Court Reporters and Private Employers

(a) Preparation for Private Parties. A court reporter may do private recording or preparation of transcripts or depositions but may not do so during regular work week hours.

(b) Maximum Charge. A court reporter may charge a maximum allowed pursuant to Administrative Rules per page for any preparation of transcripts or depositions done for private parties.

LR03-AR16-1: Electronic Filing

Electronic filing is not accepted by the Court unless specifically ordered under exceptional circumstances

FORM A

CONSENT TO ALTERNATE SERVICE – COURTHOUSE BOXES

The undersigned, as an individual practitioner or for and on behalf of the law firm below, hereby consents to service of any notice, pleading, process, order or other communication by deposit of the same in an assigned Courthouse box by:

- (a) Bartholomew County Courts;
- (b) Bartholomew County Clerk;
- (c) Other Attorneys and law firms which also consent to alternative service.

“Deposit” pursuant to this Consent shall constitute and be accepted as 1st class mail under Trial Rule 6(E). The Consent shall remain valid until revoked in writing. The Consent or revocation will be effective fourteen days after filing with the Bartholomew Circuit Court.

This Consent shall also apply to any attorneys who become associates with the undersigned law firm after the date of this consent. The undersigned agree(s) to notify the Bartholomew County Courts and Bartholomew County Bar Association promptly of any changes in the list of attorneys designated in the Consent.

DATED:

x_____ (Individual Practitioner) (Firm Name)

By:_____ (Printed)

Managing or Senior Partner

List of Attorneys in Law Firm Hereby Consenting:

_____	_____
_____	_____
_____	_____
_____	_____

(File with the Bartholomew Circuit Court.)